

(2) Adjustments based upon the percentage change in the CPI-U will be applied against the base fees as enacted or amended by Congress. Adjustments will not be calculated by using the previously adjusted fee as the base.

(b) Increases or decreases in charges will apply to all categories of fees covered by this subpart. Individual fees will not be adjusted until the increase or decrease, as determined by the net change in the CPI-U since the date of enactment of the authorizing legislation, amounts to at least \$5 in the case of fees under \$100, or 5% or more in the case of fees of \$100 or greater. All fees will be adjusted upward to the next \$5 increment.

(c) Adjustments to fees made pursuant to these procedures will not be subject to notice and comment rulemakings, nor will these decisions be subject to petitions for reconsideration under § 1.429 of the rules. Requests for modifications will be limited to correction of arithmetical errors made during an adjustment cycle.

[52 FR 5289, Feb. 20, 1987, as amended at 53 FR 40889, Oct. 19, 1988; 55 FR 19172, May 8, 1990. Redesignated and amended at 59 FR 30998, June 16, 1994. Redesignated at 60 FR 5326, Jan. 27, 1995; 65 FR 49762, Aug. 15, 2000]

§ 1.1116 Penalty for late or insufficient payments.

(a) Filings subject to fees and accompanied by defective fee submissions will be dismissed under § 1.1108(b) of this subpart where the defect is discovered by the Commission's staff within 30 calendar days from the receipt of the application or filing by the Commission.

(1) A defective fee may be corrected by resubmitting the application or other filing, together with the entire correct fee.

(2) For purposes of determining whether the filing is timely, the date of resubmission with the correct fee will be considered the date of filing. However, in cases where the fee payment fails due to error of the applicant's bank, as evidenced by an affidavit of an officer of the bank, the date of the original submission will be considered the date of filing.

(b) Applications or filings accompanied by insufficient fees or no fees

which are inadvertently forwarded to Commission staff for substantive review will be billed for the amount due if the discrepancy is not discovered until after 30 calendar days from the receipt of the application or filing at the Commission. A penalty charge of 25 percent of the amount due will be added to each bill. Any Commission actions taken prior to timely payment of this bill are contingent and subject to rescission.

(c) Applicants to whom a deferral of payment is granted under the terms of this subsection will be billed for the amount due plus a charge equalling 25 percent of the amount due. Any Commission actions taken prior to timely payment of these charges are contingent and subject to rescission.

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§ 1.1117 Petitions and applications for review.

(a) The fees established by this subpart may be waived or deferred in specific instances where good cause is shown and where waiver or deferral of the fee would promote the public interest.

(b) Requests for waivers or deferrals will only be considered when received from applicants acting in respect to their own applications. Requests for waivers or deferrals of entire classes of services will not be considered.

(c) Petitions for waivers, deferrals, fee determinations, reconsiderations and applications for review will be acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission. Requests for deferral of a fee payment for financial hardship must be accompanied by supporting documentation.

(1) Petitions and applications for review submitted with a fee must be submitted to the Commission's lockbox bank at the address for the appropriate